

STATE OF CONNECTICUT  
BOARD OF EXAMINERS FOR NURSING

*Rec'd*  
*5-13-93*  
*J*

Department of Health Services v.

Mark Olsen, RN

License No. R36623

North Quaker Hill Road

Pawling NY 12569

CASE PETITION NO. 920114-10-003

MEMORANDUM OF DECISION

INTRODUCTION

The Board of Examiners for Nursing (hereinafter the "Board") was presented by the Department of Health Services (hereinafter the "Department") with a Statement of Charges dated January 7, 1993. (Department Exhibit 2) The Statement of Charges alleged, in seven (7) counts, violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Mark Olsen (hereinafter the "Respondent").

The Board issued a Notice of Hearing dated January 7, 1993. (Department Exhibit 2) The hearing was scheduled and heard on February 3, 1993 in Room 112, National Guard Armory, Maxim Road, Hartford, Connecticut.

During the hearing on February 3, 1993 the Department verbally amended the Statement of Charges by changing the date "September 11, 1991" to "September 8, 1991" in the First Count Paragraph 3; by changing "Demerol" to "Morphine Sulfate" in the Second Count Paragraph 3a and 3b; and by withdrawing the Fifth Count in its entirety. (Hearing Transcript, February 3, 1993, pp. 9-10, 30)

Each member of the Board involved in this decision attests that he/she was present at the hearing or has reviewed the record, and that this decision is based entirely on the record and their specialized professional knowledge in evaluating the evidence.

#### FACTS

Based on the testimony given and the exhibits offered into evidence, the Board made the following findings of fact:

1. Mark Olsen, hereinafter referred to as Respondent, was issued Registered Nurse License Number R36623 on April 29, 1983 and was at all times referenced in the Statement of Charges the holder of said license. (Department Exhibit 5)
2. Pursuant to the General Statutes of Connecticut, Section 4-182(c), the Respondent was provided full opportunity prior to the institution of agency action to show compliance with all the terms for the retention of his license. (Department Exhibit 1)
3. The Respondent was aware of the time and location of the hearing. Department Exhibit 3 indicates that Notice of Hearing and Statement of Charges were delivered by certified mail to the Respondent's address of record.

4. The Respondent was not present at the hearing and was not represented by counsel. (Hearing Transcript, February 3, 1993, pp. 2-3)
5. That the Respondent was employed as a registered nurse at New Milford Hospital, New Milford, Connecticut on or about June to September 1991. (Department Exhibits 6-10)
6. That on August 8-9, 1991 the Respondent, while employed as a registered nurse at New Milford Hospital, signed out 75 mg. doses of the controlled substance Demerol on Controlled Substance Administration Record No. 28213 at 11:30 PM, 2:30 AM, 4:30 AM, 6:30 AM and 7:30 AM indicating said medication was administered to patient Margaret Gage. Said controlled substance administration record indicates that no Demerol was wasted. (Department Exhibits 6 and 7) (Hearing Transcript, February 3, 1993, p. 28)
7. The medical record of patient Margaret Gage, specifically, the medication administration record indicates that 75 mg. doses of Demerol were only administered to the patient by the Respondent at 12:00 AM and 8:00 AM on August 8-9, 1991 and that the 4:30 AM dose was circled as not being given. (Department Exhibits 6 and 10) (Hearing Transcript, February 3, 1993, p. 28)
8. That on August 9-10, 1991 the Respondent, while employed as a registered nurse at New Milford Hospital, signed out 75 mg. doses of the controlled substance Demerol on Controlled Substance Administration Record No. 28383 at 11:30 PM, 1:00 AM,

3:00 AM, and 7:30 AM, indicating said medication was administered to patient Margaret Gage. Said controlled substance administration record indicates that no Demerol was wasted. That the Respondent also signed out 100 mg. doses of the controlled substance Demerol on Controlled Substance Administration Record No. 28212 at 12:00 AM, 1:00 AM, 2:30 AM, 4:00 AM, and 6:00 AM, indicating said medication was administered to patient Margaret Gage. Said controlled substance administration record indicates that no Demerol was wasted by the Respondent. (Department Exhibits 6 and 7) (Hearing Transcript, February 3, 1993, pp. 28-30)

9. The medical record of patient Margaret Gage, specifically, the medication administration record indicates that, only 75 mg. doses of Demerol were administered to the patient by the Respondent at 12:00 AM, 2:00 AM, 4:00 AM, 6:00 AM and 7:30 AM on August 9-10, 1991. (Department Exhibits 6 and 10) (Hearing Transcript, February 3, 1993, pp. 28-30)
10. That the Respondent, while employed as a registered nurse at New Milford Hospital, signed out a 10 mg. dose of the controlled substance Morphine Sulfate on Controlled Substance Administration Record No. 05911 indicating said medication was administered to patient Louis Bardua at 8:00 on September 6, 1991. That the Respondent was not working at either 8:00 AM or 8:00 PM on September 6, 1991. (Department Exhibits 6 and 7) (Hearing Transcript, February 3, 1993, pp. 16-17)

11. That on September 8, 1991 the Respondent, while employed as a registered nurse at New Milford Hospital, signed out 10 mg. doses of the controlled substance Morphine Sulfate for patient Louis Bardua on Controlled Substance Administration Record No. 05911 at 2:15 AM and 4:00 AM but indicated the date was September 7, 1991. (Department Exhibits 6 and 7)
12. That Controlled Substance Administration Record No. 05911 indicates that no Morphine Sulfate was wasted by the Respondent from September 6, 1991 to September 8, 1991. (Department Exhibit 7)
13. The medical record of patient Louis Bardua, specifically the medication administration record, lacks documentation that the doses of Morphine Sulfate cited in FACTS 10 and 11, were administered to the patient.
14. That on September 7, 1991 the Respondent, while employed as a registered nurse at New Milford Hospital, signed out 75 mg. doses of the controlled substance Demerol on Controlled Substance Administration Record No. 28388 at 12:00 AM, 2:00 AM, 4:00 AM and 6:30 AM indicating said medication was administered to patient Valentina Setti. Said controlled substance administration record indicates that no Demerol was wasted by the Respondent. (Department Exhibit 7) (Hearing Transcript, February 3, 1993, p. 23)
15. The medical record of patient Valentina Setti, specifically, the medication administration record indicates that 75 mg. doses of

Demerol were only administered to the patient at 12:00 AM, 2:00 AM, and 4:00 AM on September 7, 1991. (Department Exhibit 9) (Hearing Transcript, February 3, 1993, p. 23)

16. That on September 7-8, 1991 the Respondent, while employed as a registered nurse at New Milford Hospital, signed out 75 mg. doses of the controlled substance Demerol on Controlled Substance Administration Record No. 28346 at 11:30 PM, 1:00 AM, 4:00 AM, 6:30 AM and 7:00 AM, indicating said medication was administered to patient Valentina Setti. Said controlled substance administration record indicates that no Demerol was wasted by the Respondent. (Department Exhibit 7) (Hearing Transcript, February 3, 1993, p. 24)
17. The medical record of the patient Valentina Setti, specifically, the medication administration record indicates that a 75 mg. dose of Demerol was only administered to the patient at 7:00 AM on September 8, 1991. (Department Exhibit 9) (Hearing Transcript, February 3, 1993, p. 24)
18. That patient Valentina Setti did not obtain pain relief from any injections she received from the Respondent on September 8, 1991. (Department Exhibit 6) (Hearing Transcript, February 3, 1993, pp. 24-25)
19. That on September 8, 1991, the Respondent, while on duty as a registered nurse at New Milford Hospital, was asleep at the bedside of patient Valentina Setti and at the nurses station. (Department Exhibit 6) (Hearing Transcript, February 3, 1993, p. 25)

20. That on September 8, 1991, the Respondent, while on duty as a registered nurse at New Milford Hospital, was unable to perform the change of shift narcotic count, the Respondent was only able to stand and stare into the controlled substance cabinet. (Department Exhibit 6) (Hearing Transcript, February 3, 1993, p. 32)
21. That on September 8, 1991, the Respondent, while on duty as a registered nurse at New Milford Hospital, withdrew a 75 mg. dose of the controlled substance Demerol from the narcotic cabinet but did not sign it out on a controlled substance administration record, did not administer it to a patient and did not waste it. (Department Exhibit 6) (Hearing Transcript, February 3, 1993, pp. 33-34)
22. That the Respondent, while employed as a registered nurse at New Milford Hospital, signed out doses of Morphine Sulfate on Controlled Substance Administration Records No. 100858, 28973 and 28235 indicating that portions of the doses were administered to patients and the remaining portions were wasted. The Respondent did not have the wastages documented or co-signed. (Department Exhibits 6 and 7)
23. During an interview on September 27, 1991 the Respondent informed Department of Consumer Protection Drug Control Agents Alexandra Mathiason and Francis Palazzolo that he was currently in therapy; was attending Alcoholics Anonymous and had been in contact with Nurses for Nurses. (Department Exhibit 6)

DISCUSSION AND CONCLUSIONS

In consideration of the above Findings of Fact, the following conclusions are rendered:

Mark Olsen held a valid registered nurse license in the State of Connecticut at all times referenced in the Statement of Charges.

The Notice of Hearing and Statement of Charges sufficiently provided information as mandated by the General Statutes of Connecticut Sections 4-177, 4-182 and 19a-17.

The hearing was held in accordance with Chapters 54 and 368a of the General Statutes of Connecticut as well as 18-2a-1 through 19-2a-30 of the Regulations of Connecticut State Agencies. The Notice of Hearing, Statement of Charges and the hearing process provided the Respondent with the opportunity to demonstrate compliance with all lawful requirements for the retention of his license as required by the General Statutes of Connecticut Section 4-182(c).

The FIRST COUNT of the Statement of Charges as amended alleges that the Respondent on or about September 8, 1991 while working as a registered nurse at New Milford Hospital, New Milford, Connecticut "a. diverted Demerol... b. abused or utilized to excess Demerol...c. failed to completely or properly or accurately make documentations in the medical or hospital records...d. failed to properly waste or discard Demerol".

The Respondent was not present at the hearing to answer to these charges. (Hearing Transcript, February 3, 1993, pp. 2-3)



Based on its findings upon review of the evidence presented during the hearing, specifically FACTS 16-21 and 23, the Board concludes that the Respondent diverted the controlled substance Demerol for the purpose of abusing or utilizing said medication, and that by diverting the Demerol the Respondent failed to properly make documentations in medical or hospital records and failed to properly waste Demerol.

The General Statutes of Connecticut Section 2-99(b) prohibits conduct which fails to conform to the accepted standards of the nursing profession, which includes "... (2) illegal conduct, incompetence or negligence in carrying out usual nursing functions... (5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals; (6) fraud or material deception in the course of professional services or activities...."

The Board concludes that the Respondent's conduct as specified in the First Count as amended is proven and that said conduct violates the General Statutes of Connecticut Section 20-99(b)(2)(5) and (6). Therefore, the Respondent is subject to disciplinary action pursuant to the General Statutes of Connecticut.

The SECOND COUNT of the Statement of Charges as amended alleges that the Respondent, while working as a registered nurse at New Milford Hospital, New Milford, Connecticut during September 6 and 8, 1991, "a. diverted Morphine Sulfate... b. abused or utilized to excess Morphine Sulfate... c. failed to completely or properly or accurately make documentations in the medical or hospital records of Louis Bardua... d. falsified one or more Controlled Substance Receipt Records."

The Respondent was not present at the hearing to answer to these charges. (Hearing Transcript, February 3, 1993, pp. 2-3)

Based on its findings upon review of the evidence presented during the hearing, specifically FACTS 10-13 and 23, the Board concludes that the Respondent diverted the controlled substance Morphine Sulfate for the purpose of abusing or utilizing to excess said medication, and that by diverting the Morphine Sulfate the Respondent failed to properly make documentations in medical or hospital records and falsified controlled substance receipt records.

The General Statutes of Connecticut Section 20-99(b) prohibits conduct which fails to conform to the accepted standards of the nursing profession, which includes "... (2) illegal conduct, incompetence or negligence in carrying out usual nursing functions... (5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals; (6) fraud or material deception in the course of professional services or activities...."

The Board concludes that the Respondent's conduct as specified in the Second Count as amended is proven and that said conduct violates the General Statutes of Connecticut Section 20-99(b)(2)(5) and (6). Therefore, the Respondent is subject to disciplinary action pursuant to the General Statutes of Connecticut.

The THIRD COUNT of the Statement of Charges alleges that the Respondent, while working as a registered nurse at New Milford Hospital, New Milford, Connecticut during September 7 and 9, 1991

"a. diverted Demerol...b. abused or utilized to excess Demerol...c. failed to completely or properly or accurately make documentations in the medical or hospital records of Valentina Setti...d. falsified one or more Controlled Substance Receipt Records."

The Respondent was not present at the hearing to answer to these charges. (Hearing Transcript, February 3, 1993, pp. 2-3)

Based on its findings upon review of the evidence presented during the hearing, specifically FACTS 14-20 and 23, the Board concludes that the Respondent diverted the controlled substance Demerol for the purpose of abusing or utilizing to excess said medication, and that by diverting the Demerol the Respondent failed to properly make documentations in medical or hospital records and falsified controlled substance receipt records.

The General Statutes of Connecticut Section 20-99(b) prohibits conduct which fails to conform to the accepted standards of the nursing profession, which includes "... (2) illegal conduct, incompetence or negligence in carrying out usual nursing functions... (5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals; (6) fraud or material deception in the course of professional services or activities...."

The Board concludes that the Respondent's conduct as specified in the Third Count is proven and that said conduct violates the General Statutes of Connecticut Section 20-99(b)(2)(5) and (6). Therefore, the Respondent is subject to disciplinary action pursuant to the General Statutes of Connecticut.

The FOURTH COUNT of the Statement of Charges alleges that the Respondent, while working as a registered nurse at New Milford Hospital, New Milford, Connecticut during August 8 and 10, 1991 "a. diverted Demerol...b. abused or utilized to excess Demerol...c. failed to completely or properly or accurately make documentations in the medical or hospital records of Margaret Gage...d. falsified one or more Controlled Substance Receipt Records."

The Respondent was not present at the hearing to answer to these charges. (Hearing Transcript, February 3, 1993, pp. 2-3)

Based on its findings upon review of the evidence presented during the hearing, specifically FACTS 6-9, and 23, the Boards concludes that the Respondent diverted the controlled substance Demerol for the purpose of abusing or utilizing to excess said medication, and that by diverting Demerol the Respondent failed to properly make documentations in medical or hospital records and falsified controlled substance receipt records.

The General Statutes of Connecticut Section 20-99(b) prohibits conduct which fails to conform to the accepted standards of the nursing profession, which includes "... (2) illegal conduct, incompetence or negligence in carrying out usual nursing functions... (5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals; (6) fraud or material deception in the course of professional services or activities...."

The Board concludes that the Respondent's conduct as specified in the Fourth Count is proven and that said conduct violates the

General Statutes of Connecticut Section 20-99(b)(2)(5) and (6).

Therefore, the Respondent is subject to disciplinary action pursuant to the General Statutes of Connecticut.

The SIXTH COUNT of the Statement of Charges alleges that the Respondent, while working as a registered nurse at New Milford Hospital, New Milford, Connecticut failed to properly waste one or more doses of the controlled substance Morphine Sulfate on Proof Of Use Sheets No. 100858, 28973 and 28235.

The Respondent was not present at the hearing to answer to these charges. (Hearing Transcript, February 3, 1993, pp. 2-3)

Based on its findings upon review of the evidence presented during the hearing, specifically FACT 22, the Board concludes that the Respondent failed to properly waste the controlled substance Morphine Sulfate.

The General Statutes of Connecticut Section 20-99(b) prohibits conduct which fails to conform to the accepted standards of the nursing profession, which includes "... (2) illegal conduct, incompetence or negligence in carrying out usual nursing functions...."

The Board concludes that the Respondent's conduct as specified in the Sixth Count is proven and that said conduct violates the General Statutes of Connecticut Section 20-99(b)(2). Therefore, the Respondent is subject to disciplinary action pursuant to the General Statutes of Connecticut.

The SEVENTH COUNT of the Statement of Charges alleges that the Respondent, while working as a registered nurse at New Milford Hospital, New Milford, Connecticut during September 7 and 9, 1991, "a. slept at the nurse's station while on duty...b. slept in patient, Valentina Setti's room...c. was unable to properly take inventory on the Controlled Substance Cabinet at the change of shift".

The Respondent was not present at the hearing to answer to these charges. (Hearing Transcript, February 3, 1993, pp. 2-3)

Based on its findings upon review of the evidence presented during the hearing, specifically FACTS 19 and 20 and its conclusion that the Respondent diverted and abused the controlled substance Demerol and Morphine Sulfate (Counts One, Two and Three), the Board concludes that the Respondent was asleep while on duty and was physically unable to perform the change of shift narcotic count. The Board further concludes that the Respondent's physical inability to function while on duty as a registered nurse was a direct result of abuse and/or use of controlled substances.

The General Statutes of Connecticut Section 20-99(b) prohibits conduct which fails to conform to the accepted standards of the nursing profession, which includes "... (2) illegal conduct, incompetence or negligence in carrying out usual nursing functions; (3) physical illness or loss of motor skill, including but not limited to deterioration through the aging process...."

The Board concludes that the Respondent's conduct as specified in the Seventh Count is proven and that said conduct violates the General Statutes of Connecticut Section 20-99(b)(2) and (3).

Therefore, the Respondent is subject to disciplinary action pursuant to the General Statutes of Connecticut.

ORDER

Pursuant to its authority under the General Statutes of Connecticut Sections 19a-17 and 20-99 the Boards of Examiners for Nursing hereby orders:

1. That for the FIRST COUNT, SECOND COUNT, THIRD COUNT, FOURTH COUNT, SIXTH COUNT AND SEVENTH COUNT, the registered nurse license of the Respondent be revoked.
2. That the date of revocation shall become effective on May 15, 1993.

The Board of Examiners for Nursing finds the misconduct regarding the First Count, Second Count, Third Count, Fourth Count, Sixth Count and Seventh Count is severable and warrants the disciplinary action imposed.

The Board of Examiners for Nursing informs the Respondent, Mark Olsen, and the Department of Health Services of the State of Connecticut of this decision.

Dated at Hartford, Connecticut, this 13th day of May, 1993.

BOARD OF EXAMINERS FOR NURSING

By

Janice Thibodeau